

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:21-CV-501-RJC-DCK**

FS MEDICAL SUPPLIES, LLC,

Plaintiff,

v.

**TANNERGAP, INC., TANNER PHARMA
UK LIMITED, RAYMOND FAIRBANKS
BOURNE, AND STEPHEN JOHN SCALIA,**

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on the parties’ “Joint Stipulation And Consent Order” (Document No. 59) filed September 16, 2022. The Court construes the parties’ filing as a motion for entry of a proposed “Joint Stipulation And Consent Order.” Having carefully considered the motion and the record, and following consultation with the Honorable Robert J. Conrad, Jr.’s chambers, the undersigned will grant the motion and enter the parties’ proposed Order as follows.

JOINT STIPULATION AND CONSENT ORDER

Whereas, on August 12, 2022, Plaintiff FS Medical Supplies, LLC (“FS Medical”) filed an Amended Complaint under seal due to it containing information that Defendants Tanner GAP, Inc. and Tanner Pharma UK Limited (collectively, the “Corporate Defendants”) had identified as confidential pursuant to this Court’s Protective Order.

Whereas, the Corporate Defendants proposed redacting certain allegations and allowing the remainder to be filed and available to the public in the Court record.

Whereas, FS Medical opposed the redactions and sought Court intervention.

Whereas, the Court directed the parties to meet and confer to discuss the redactions, which the parties did on September 9, 2022.

Whereas, the parties reached an agreement on all of the redactions.

Whereas, a dispute arose among the parties as to whether the following allegation should be included in the Amended Complaint:

“On February 15, 2011, Defendant Scalia pled guilty to insider trading in violation of 18 U.S.C. § 371 in the United States District Court for the Southern District of California.”

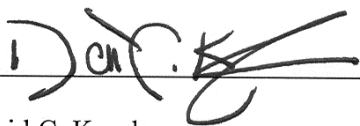
Whereas, Defendant Scalia and the Corporate Defendants argued that this allegation is immaterial, impertinent and scandalous and should be stricken from the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(f).

Whereas, as a good-faith compromise and to conserve judicial resources, the parties agreed that the disputed allegation would be omitted from FS Medical’s Amended Complaint, subject to a stipulation that no party shall be prejudiced or benefited by its omission from the Amended Complaint and no party shall waive any right to introduce evidence or object to the introduction of evidence at the trial of this matter or otherwise, related to Defendant Scalia’s February 2011 guilty plea.

IT IS, THEREFORE, ORDERED that the omission in the Amended Complaint of the allegation “On February 15, 2011, Defendant Scalia pled guilty to insider trading in violation of 18 U.S.C. § 371 in the United States District Court for the Southern District of California” shall not prejudice or benefit any party and no party waives any right to introduce evidence or object to the introduction of evidence at the trial of this matter or otherwise, related to Defendant Scalia’s February 2011 guilty plea.

This the 19th day of September, 2022.

Signed: September 19, 2022



David C. Keesler
United States Magistrate Judge



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